

Cote, D.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

NATIONAL CREDIT UNION  
ADMINISTRATION BOARD, etc.,

Plaintiff,

v.

MORGAN STANLEY & CO., et al.,

Defendants.

NATIONAL CREDIT UNION  
ADMINISTRATION BOARD, etc.,

Plaintiff,

v.

WACHOVIA CAPITAL MARKETS, LLC,  
n/k/a WELLS FARGO SECURITIES, LLC,

Defendant.

NATIONAL CREDIT UNION  
ADMINISTRATION BOARD, etc.,

Plaintiff,

v.

GOLDMAN, SACHS & CO., et al.,

Defendants.

NATIONAL CREDIT UNION  
ADMINISTRATION BOARD, etc.,

Plaintiff,

v.

RBS SECURITIES, INC., f/k/a  
GREENWICH CAPITAL MARKETS, INC.,  
et al.,

Defendants.

DOCUMENT  
ELECTRONICALLY

8/26/2014

Case No. 13-cv-6705 (DLC)

Case No. 13-cv-6719 (DLC)

Case No. 13-cv-6721 (DLC)

Case No. 13-cv-6726 (DLC)

NATIONAL CREDIT UNION ADMINISTRATION BOARD, etc.,	Plaintiff,
v.	
BARCLAYS CAPITAL, INC.,	Defendant.
NATIONAL CREDIT UNION ADMINISTRATION BOARD, etc.,	Plaintiff,
v.	
UBS SECURITIES, LLC	Defendant.
NATIONAL CREDIT UNION ADMINISTRATION BOARD, etc.,	Plaintiff,
v.	
CREDIT SUISSE SECURITIES (USA) LLC, et al.,	Defendants.

Case No. 13-cv-6727 (DLC)

Case No. 13-cv-6731 (DLC)

Case No. 13-cv-6736 (DLC)

**UNITED STATES DISTRICT COURT  
DISTRICT OF KANSAS**

**NATIONAL CREDIT UNION  
ADMINISTRATION BOARD, etc.,**

Plaintiff,

v.

**RBS SECURITIES, INC., f/k/a  
GREENWICH CAPITAL MARKETS, INC.,  
et al.,**

Defendants.

**NATIONAL CREDIT UNION  
ADMINISTRATION BOARD, etc.,**

Plaintiff,

v.

**WACHOVIA CAPITAL MARKETS, LLC  
n/k/a WELLS FARGO SECURITIES, LLC,**

Defendant.

**NATIONAL CREDIT UNION  
ADMINISTRATION BOARD, etc.,**

Plaintiff,

v.

**UBS SECURITIES, LLC, et al.,**

Defendants.

Case No. 11-cv-2340 (JWL)

Case No. 11-cv-2649 (JWL)

Case No. 12-cv-2591 (JWL)

NATIONAL CREDIT UNION  
ADMINISTRATION BOARD, etc.,

Plaintiff,

v.

CREDIT SUISSE SECURITIES (USA) LLC, et  
al.,

Defendants.

NATIONAL CREDIT UNION  
ADMINISTRATION BOARD, etc.,

Plaintiff,

v.

MORGAN STANLEY & CO., et al.,

Defendants.

Case No. 12-cv-2648 (JWL)

Case No. 13-cv-2418 (JWL)

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION**

NATIONAL CREDIT UNION  
ADMINISTRATION BOARD, etc.,

Plaintiff,

v.

RBS SECURITIES, INC., f/k/a  
GREENWICH CAPITAL MARKETS, INC.,  
et al.,

Defendants.

Case No. 11-cv-5887 (GW)

NATIONAL CREDIT UNION  
ADMINISTRATION BOARD, etc.,

Plaintiff,

v.

GOLDMAN, SACHS & CO., et al.,

Defendants.

Case No. 11-cv-6521 (GW)

**STIPULATION AND [PROPOSED] SUPPLEMENTAL  
PROTECTIVE ORDER FOR MATERIALS PRODUCED BY THE  
LIQUIDATING TRUSTEE FOR PEOPLE'S CHOICE HOME LOAN, INC.**

WHEREAS People's Choice Home Loan, Inc. ("PCHLI") was a debtor in Chapter 11 bankruptcy proceedings in the United States Bankruptcy Court for the Central District of California (the "Bankruptcy Court") and has been dissolved pursuant to an order confirming a plan of liquidation entered by the Bankruptcy Court in 2008, and PCHLI's files and records are now in the custody of the Liquidating Trustee appointed by the Bankruptcy Court (the "Trustee");

WHEREAS Plaintiff National Credit Union Administration Board ("NCUA") seeks certain records of PCHLI through a subpoena directed to the Trustee, to which the Trustee has objected on the basis (among other things) that requiring the Trustee to identify and produce the requested materials would be unduly burdensome, and that records can be made available by the Trustee substantially as they were maintained by PCHLI in the ordinary course;

WHEREAS the Trustee will make available to NCUA in the above-captioned actions (the "Actions") PCHLI's records and files, but only subject to this stipulation and proposed supplemental protective order, because the records and files include or disclose, *inter alia*, (a) non-public personal information concerning borrowers and applicants for credit, (b) non-public personal information concerning employees and directors of PCHLI or its affiliates, and (c) attorney-client communications between PCHLI or its affiliates and counsel;

WHEREAS the Trustee has limited resources, will function for only a limited time period before the Liquidating Trust is terminated, operates with a limited scope of responsibilities under the plan of liquidation of PCHLI, and wishes to ensure the protection of materials made available in the Actions in light of these limitations; and

WHEREAS, to address the needs of the Trustee raised by its limited resources, duration, and scope, the Trustee and the parties to the Actions have agreed to enter into a supplemental protective order to supplement the terms and protections provided in the Master Protective Order entered in the Actions on April 9, 2014 (the "Master Protective Order");

NOW, THEREFORE, in light of the foregoing, and for good cause shown, it is hereby stipulated and agreed by and among the Trustee and the parties to the Actions, subject to the approval of the Court, as follows:

1. Except as expressly set forth herein, materials made available by the Trustee in the Actions will be governed by the terms of the Master Protective Order.

2. Solely with respect to materials made available by the Trustee in the Actions, Sections 5.1 and 12.1 of the Master Protective Order shall be amended to eliminate any limitation that only certain categories of materials may be designated in bulk as Confidential or Highly Confidential. Instead, all materials made available by the Trustee in the Actions shall be deemed to be designated in bulk as Confidential.

3. Solely with respect to materials made available by the Trustee in the Actions, Section 5.2 of the Master Protective Order, dealing with designation of materials as Confidential, shall be replaced by the following:

All materials made available by the Trustee in the Actions shall be deemed Confidential; no legend designating as Confidential materials made available by

the Trustee need be affixed to the materials in order to establish their confidentiality.

4. Solely with respect to materials made available by the Trustee in the Actions, Sections 12.1 and 12.2 of the Master Protective Order shall be amended to provide that:

All materials made available by the Trustee in the Actions may and will be made available without a prior privilege review by the Trustee. Pursuant to Federal Rule of Evidence 502(d), the Court orders that such disclosure by the Trustee shall not be deemed a waiver by the Trustee in the Actions or in any other federal or state proceeding of any applicable privilege or protection.
5. Solely with respect to materials made available by the Trustee in the Actions, Section 15 of the Master Protective Order shall be amended such that, if at any time, any materials made available by the Trustee and in the possession of a party are subpoenaed or requested by any court, administrative or legislative body, or any other person or entity purporting to have authority to require production thereof, the person to whom the subpoena is directed or requested shall, to the extent permitted by law, promptly take reasonable steps to ensure that any materials produced in response to such process will remain subject to protections generally equivalent to those provided through the Master Protective Order as modified by this Supplemental Protective Order, provided, however, that nothing in this Order shall require any person to disregard, or default with respect to, any court order, statute, law, or regulation, or other process issued by any governmental, administrative, legislative, or regulatory body.
6. Solely with respect to materials made available by the Trustee in the Actions, Sections 6.1 and 6.2 of the Master Protective Order shall be amended and replaced by the following:

6. CHALLENGING CONFIDENTIALITY DESIGNATIONS:

(a) Notice: If a party to the Actions elects to challenge the presumptive confidentiality designation for materials made available by the Trustee, it must do so in good faith, and shall give written notice to the Trustee of its intention to challenge the designation (unless the Trustee is no longer in place following termination of the PCHLI Liquidating Trust).

(b) Written Notice to Interested Non-Parties: The entirety of this section 6(b) shall not be applicable to plaintiff NCUA. In addition to the notice set forth above in Section 6(a), any party to the Actions other than NCUA wishing to challenge the presumptive confidentiality designation (a “Challenging Party”) shall also give written notice to any person whose information would cease to be confidential if the challenge is successful (an “Interested Non-Party”), to the extent (1) such Interested Non-Party is reasonably identifiable from the face of the materials at issue and (2) his or her address or other contact information can be ascertained from the face of the materials or through a reasonable search. Such notice shall provide sufficient information for the Interested Non-Party to understand the nature of the information that would be disclosed, and shall notify the Interested Non-Party that, unless they communicate an objection to the Challenging Party within ten (10) calendar days and arrange a meet and confer, the Challenging Party may seek relief from the Court. The Challenging Party shall then, within ten (10) calendar days, attempt in good faith to meet and confer with the Interested Non-Party.

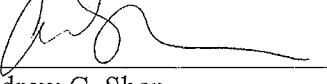
(c) Judicial Intervention: Other than NCUA, if the Challenging Party and the Interested Non-Party are not able to resolve any dispute about a confidentiality designation during the meet and confer process set forth in Section 6(b), or if the Interested Non-Party

cannot be identified or located, the Challenging Party may seek relief from the Court in accordance with its rules and procedures. NCUA may seek relief from the Court in accordance with its rules and procedures, by showing that particular materials should not be treated as confidential, once it has provided notice to the Trustee (if the Trustee is still in place) in accordance with Section 6(a). In the event the Trustee is no longer in place, NCUA shall be able to seek judicial intervention and show that particular materials should not be treated as confidential without the need for notice whatsoever. Other than as to NCUA, the Challenging Party moving for relief shall, at a minimum: (i) inform the Court of each Interested Non-Party whose information would be affected if the relief were granted, to the extent the Interested Non-Party can be reasonably identified from the face of the materials at issue; (ii) identify the nature of the information (e.g., social security number; employment, credit, or earnings history; loan application information) that would cease to be protected if the relief were granted; and (iii) in the case of Parties other than NCUA, inform the Court, as applicable, that the Challenging Party was unable to identify or contact the Interested Non-Party to inform them of the request or to seek their consent, or that the meet and confer process did not lead to a consensual resolution. Until the Court rules on the challenge to the confidentiality designation, all Parties to the Actions shall continue to treat the material in question as Confidential under the presumptive confidentiality designation described above. In the event that the final ruling is that the challenged material's designation shall be changed, the Challenging Party shall, if necessary, reproduce copies of all materials with the designation removed or changed in accordance with the ruling within fifteen (15) calendar days of the ruling.

So ordered.

James Cole  
8/26/14

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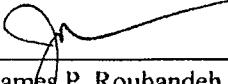
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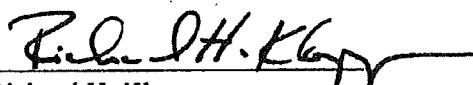
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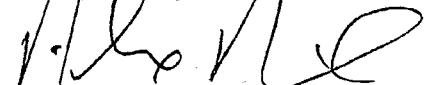
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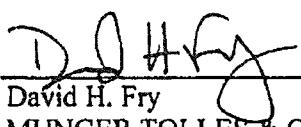
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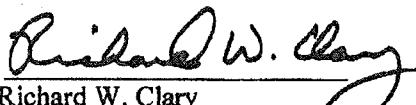
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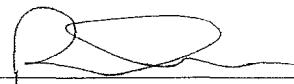
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IT IS SO ORDERED.

DATED: \_\_\_\_\_, 2014

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Hon. Denise Cote, United States District  
Judge

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Hon. George H. Wu, United States District  
Judge

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Hon. John W. Lungstrum, United States  
District Judge

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Hon. James P. O'Hara, United States  
Magistrate Judge